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1 AMENDMENT TO HOUSE BILL 4523

2 AMENDMENT NO. _____. Amend House Bill 4523 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Tattoo and Body Piercing Establishment Registration Act.

6 Section 5. Purpose. It has been established that
7 non-sterile needles can lead to the spread of certain
8 blood-borne illnesses such as Hepatitis and HIV. Tattoo and
9 body piercing practices affect the health, safety, and welfare
10 of the public, therefore, the General Assembly finds that the
11 regulation of tattoo and body piercing establishments by the
12 State is necessary to ensure public health, safety, and
13 welfare. It is further declared that the purpose of this Act is
14 to provide for a safe and adequate blood supply. This Act shall
15 be liberally construed to carry out these objectives and
16 purposes.

17 Section 10. Definitions. In this Act:

18 "Body piercing" means penetrating the skin to make a hole,
19 mark, or scar that is generally permanent in nature. "Body
20 piercing" does not include practices that are considered
21 medical procedures or the puncturing of the outer perimeter or
22 lobe of the ear using a pre-sterilized, single-use stud and
23 clasp ear piercing system.

1 "Client" means the person, customer, or patron whose skin
2 will be tattooed or pierced.

3 "Communicable disease" means a disease that can be
4 transmitted from person to person directly or indirectly,
5 including diseases transmitted via blood or body fluids.

6 "Department" means the Department of Public Health or other
7 health authority designated as its agent.

8 "Director" means the Director of Public Health or his or
9 her designee.

10 "Establishment" means body-piercing operation, a tattooing
11 operation, or a combination of both operations in a
12 multiple-type establishment.

13 "Ink cup" means a small container for an individual portion
14 of pigment that may be installed in a holder or palette and in
15 which a small amount of pigment of a given color is placed.

16 "Multi-type establishment" means an operation encompassing
17 both body piercing and tattooing on the same premises and under
18 the same management.

19 "Operator" means an individual, partnership, corporation,
20 association, or other entity engaged in the business of owning,
21 managing, or offering services of body piercing or tattooing.

22 "Single use" means items that are intended for one time and
23 one person use only and are to then be discarded.

24 "Sterilize" means to treat an object or surface with a
25 procedure that kills or irreversibly inactivates all
26 microorganisms, including bacteria, viruses, and pathogenic
27 fungi and their spores.

28 "Tattooing" means making permanent marks on the skin of a
29 live human being by puncturing the skin and inserting indelible
30 colors. "Tattooing" includes imparting permanent makeup on the
31 skin, such as permanent lip coloring and permanent eyeliner.
32 "Tattooing" does not include any of the following:

33 (1) The practice of electrology as defined in the
34 Electrology Licensing Act.

1 (2) The practice of acupuncture as defined in the
2 Acupuncture Licensing Act.

3 (3) The use, by a physician licensed to practice
4 medicine in all its branches, of colors, dyes, or pigments
5 for the purpose of obscuring scar tissue or imparting color
6 to the skin for cosmetic, medical, or figurative purposes.

7 Section 15. Registration required.

8 (a) A certificate of registration issued by the Department
9 shall be required prior to the operation of any establishment
10 or multi-type establishment. The owner of the facility shall
11 file an application for a certificate of registration with the
12 Department that shall be accompanied by the requisite fee, as
13 determined by the Department, and include all of the following
14 information:

15 (1) The applicant's (owner) name, address, telephone
16 number, and age. In order to qualify for a certificate of
17 registration under this Act, an applicant must be at least
18 18 years of age.

19 (2) The name, address, and phone number of the
20 establishment.

21 (3) The type and year of manufacture of the equipment
22 proposed to be used for tattooing or body piercing.

23 (4) The sterilization and operation procedures to be
24 used by the establishment.

25 (5) Any other information required by the Department.

26 (b) If the owner owns or operates more than one
27 establishment, the owner shall file a separate application for
28 each facility owned or operated.

29 Section 20. Temporary registration. A temporary
30 certificate of registration may be issued by the Department for
31 educational, trade show, or product demonstration purposes
32 only. The temporary certificate of registration shall be valid

1 for a maximum of 14 calendar days.

2 Section 25. Operating requirements. All establishments
3 registered under this Act must comply with the following
4 requirements:

5 (1) An establishment must use single use disposable
6 needles on each client, or, if the same needle is used on
7 more than one client, then the needles used must undergo
8 sterilization procedures established by the Department
9 after each use.

10 (2) Single use ink must be used for tattoos.

11 (3) Any additional requirements established by the
12 Department.

13 Section 30. Duties of the Department; rulemaking.

14 (a) Before issuing a certificate of registration to an
15 applicant, the Department, or its designee, shall inspect the
16 premises of the establishment to insure compliance under the
17 requirements of this Act.

18 (b) Once a certificate of registration is issued, the
19 Department shall periodically inspect each establishment
20 registered under this Act to ensure compliance.

21 (c) The Department shall adopt any rules deemed necessary
22 for the implementation and administration of this Act.

23 Section 35. Expiration and renewal of registration;
24 display.

25 (a) A certificate of registration issued under this Act
26 shall expire and may be renewed annually.

27 (b) Registration is valid for a single location and only
28 for the operator named on the certificate. Registration is not
29 transferable.

30 (c) The certificate of registration issued by the
31 Department shall be conspicuously displayed within the sight of

1 clients upon entering the establishment.

2 Section 40. Change of ownership. In the event of a change
3 of ownership, the new owner must apply for a certificate of
4 registration prior to taking possession of the property. A
5 provisional certificate of registration may be issued by the
6 Department until an initial inspection for a certificate of
7 registration can be performed by the Department or its
8 designee.

9 Section 45. Denial; suspension; revocation; nonrenewal of
10 registration. A certificate of registration may be denied,
11 suspended, revoked, or the renewal of a certificate of
12 registration may be denied for any of the following reasons:

13 Violation of any of the provisions of this Act or the rules
14 and regulations adopted by the Department under this Act.

15 Conviction of an applicant or registrant of an offense
16 arising from false, fraudulent, deceptive, or misleading
17 advertising. The record of conviction or a certified copy shall
18 be conclusive evidence of the conviction.

19 Revocation of a certificate of registration during the
20 previous 5 years or surrender or expiration of the certificate
21 of registration during the pendency of action by the Department
22 to revoke or suspend the certificate of registration during the
23 previous 5 years, if before the certificate of registration was
24 issued to the individual applicant, a controlling owner or
25 controlling combination of owners of the applicant, or any
26 affiliate of the individual applicant or controlling owner of
27 the applicant or affiliate of the applicant, was a controlling
28 owner of the prior certificate of registration.

29 Section 50. Administration; enforcement.

30 (a) The Department may establish a training program for the
31 Department agents for administration and enforcement of this

1 Act.

2 (b) In the administration and enforcement of this Act, the
3 Department may designate and use State certified local health
4 departments as its agents in the administration and enforcement
5 of this Act and rules.

6 Section 55. Investigation; hearing; notice. The Department
7 may, upon its own motion, and shall upon the verified complaint
8 in writing of any person setting forth facts which if proven
9 would constitute grounds for the denial of an application for a
10 certificate of registration, or refusal to renew a certificate
11 of registration, or revocation of a certificate of
12 registration, or suspension of a certificate of registration,
13 investigate the applicant or registrant. The Department, after
14 notice and opportunity for hearing, may deny any application
15 for or suspend or revoke a certificate of registration or may
16 refuse to renew a certificate of registration. Before denying
17 an application or refusing to renew, suspending, or revoking a
18 certificate of registration, the Department shall notify the
19 applicant in writing. The notice shall specify the charges or
20 reasons for the Department's contemplated action. The
21 applicant or registrant must request a hearing within 10 days
22 after receipt of the notice. Failure to request a hearing
23 within 10 days shall constitute a waiver of the right to a
24 hearing.

25 Section 60. Conduct of hearing.

26 (a) The hearing shall be conducted by the Director, or an
27 individual designated in writing by the Director as a hearing
28 officer. The Director or hearing officer may compel by subpoena
29 or subpoena duces tecum the attendance and testimony of
30 witnesses and the production of books and papers, and
31 administer oaths to witnesses. The hearing shall be conducted
32 at a place designated by the Department. The procedures

1 governing hearings and the issuance of final orders under this
2 Act shall be in accordance with rules adopted by the
3 Department.

4 (b) All subpoenas issued by the Director or hearing officer
5 may be served as provided for in civil actions. The fees of
6 witnesses for attendance and travel shall be the same as the
7 fees for witnesses before the circuit court and shall be paid
8 by the party to the proceedings at whose request the subpoena
9 is issued. If a subpoena is issued at the request of the
10 Department, the witness fee shall be paid as an administrative
11 expense.

12 (c) In cases of refusal of a witness to attend or testify,
13 or to produce books or papers, concerning any matter upon which
14 he or she might be lawfully examined, the circuit court of the
15 county wherein the hearing is held, upon application of any
16 party to the proceeding, may compel obedience by proceeding as
17 for contempt as in cases of a like refusal to obey a similar
18 order of the court.

19 Section 65. Findings of fact; conclusions of law; decision.
20 The Director or hearing officer shall make findings of fact and
21 conclusions of law in a hearing, and the Director shall render
22 his or her decision, or the hearing officer his or her proposal
23 for decision within 45 days after the termination of the
24 hearing unless additional time is required by the Director or
25 hearing officer for a proper disposition of the matter. A copy
26 of the final decision of the Director shall be served upon the
27 applicant or registrant in person or by certified mail.

28 Section 70. Review under Administrative Review Law; venue;
29 costs. All final administrative decisions of the Department
30 under this Act shall be subject to judicial review under the
31 provisions of Article III of the Code of Civil Procedure. The
32 term "administrative decision" is defined under Section 3-101

1 of the Code of Civil Procedure.

2 Proceedings for judicial review shall be commenced in the
3 circuit court of the county in which the party applying for
4 review resides; provided, that if the party is not a resident
5 of this State, the venue shall be in Sangamon County.

6 The Department shall not be required to certify any record
7 or file any answer or otherwise appear in any proceeding for
8 judicial review unless the party filing the complaint deposits
9 with the clerk of the court the sum of 95¢ per page
10 representing costs of certification of the record or file.
11 Failure on the part of the plaintiff to make the deposit shall
12 be grounds for dismissal of the action.

13 Section 75. Administrative Procedure Act; application. The
14 provisions of the Illinois Administrative Procedure Act are
15 hereby expressly adopted and shall apply to all administrative
16 rules and procedure of the Department under this Act, except
17 that in case of conflict between the Illinois Administrative
18 Procedure Act and this Act the provisions of this Act shall
19 control, and except that Section 5 of the Illinois
20 Administrative Procedure Act relating to procedures for
21 rulemaking does not apply to the adoption of any rules required
22 by federal law in connection with which the Department is
23 precluded by law from exercising any discretion.

24 Section 80. Penalties; fines. The Department is authorized
25 to establish and assess penalties or fines against a registrant
26 for violations of this Act or regulations adopted under this
27 Act. In no circumstance will any penalties or fines exceed
28 \$1,000 per day for each day the registrant remains in
29 violation.

30 Section 85. Public nuisance.

31 (a) Any establishment operating without a valid

1 certificate of registration or operating on a revoked
2 certificate of registration shall be guilty of committing a
3 public nuisance.

4 (b) A person convicted of knowingly maintaining a public
5 nuisance commits a Class A misdemeanor. Each subsequent offense
6 under this Section is a Class 4 felony.

7 (c) The Attorney General of this State or the States
8 Attorney of the county wherein the nuisance exists may commence
9 an action to abate the nuisance. The court may without notice
10 or bond enter a temporary restraining order or a preliminary
11 injunction to enjoin the defendant from operating in violation
12 of this Act.

13 Section 90. Tattoo and Body Piercing Establishment
14 Registration Fund. There is hereby created in the State
15 Treasury a special fund to be known as the Tattoo and Body
16 Piercing Establishment Registration Fund. All fees and fines
17 collected by the Department under this Act and any agreement
18 for the implementation of this Act and rules under this Act and
19 any federal funds collected pursuant to the administration of
20 this Act shall be deposited into the Fund. The amount deposited
21 shall be appropriated by the General Assembly to the Department
22 for the purpose of conducting activities relating to tattooing
23 and body piercing establishments.

24 Section 905. The State Finance Act is amended by adding
25 Section 5.663 as follows:

26 (30 ILCS 105/5.663 new)

27 Sec. 5.663. The Tattoo and Body Piercing Establishment
28 Registration Fund."